

Higbee & Associates

A NATIONAL LAW FIRM

June 5, 2023

MEMO ENDORSED

LETTER MOTION

Hon. Edgardo Ramos
 United States District Judge
 Southern District of New York
 40 Foley Square
 New York, NY 10007

RE: **Miller v. 4Internet, LLC et al**
Case 1:23-mc-00046-ER

Dear Judge Ramos,

Mr. Higbee's request to withdraw himself, Ryan E. Carreon, and all of Higbee & Associates, as counsel for the Plaintiff, Robert Miller, is granted. The deposition of Robert Miller is stayed for 60 days, until August 7, 2023. SO ORDERED.



Edgardo Ramos, U.S.D.J.
 Dated: June 7, 2023
 New York, New York

My firm and I represent Robert Miller in a related action pending in the District of Nevada, 2:18-cv-02097-JAD-VCF (“Nevada Action”). Judgment was entered against Robert Miller in the Nevada Action which I understand was domesticated via this action in New York (“New York Action”). Recently, Mr. Miller agreed to appear for a deposition regarding enforcement of the domesticated judgment to take place on Monday, June 12, 2023.

On Friday at nearly 6 p.m., I received an ECF notification in the Nevada Action for a “Motion for Reconsideration.” After reviewing the submission, I learned that Mr. Miller, without my knowledge, sent a letter to the Court in the Nevada Action accusing myself and my firm, Higbee & Associates (“H&A”) of seriously mishandling his case, asking the court to relieve him from the judgment, and asking the court to instead enter the judgment against myself and H&A. Attached hereto as Exhibit A is a true and correct copy of the filing by Mr. Miller.

After reviewing Mr. Miller’s submission, I informed him that I did not believe H&A could continue to represent him and that I would refrain from giving further legal advice before consulting with ethics counsel. Earlier this afternoon, Mr. Miller responded that he expected H&A to defend him at the deposition on June 12 and that if I intended to withdraw, that I ask for a stay of 60 days to allow him to obtain new representation. Attached hereto as Exhibit B is a true and correct copy of my email correspondence with Mr. Miller.

Rule 1.16(c)(7) of the New York Rules of Professional Conduct provides that a lawyer may withdraw as counsel when the client “otherwise renders the representation unreasonably difficult for the lawyer to carry out employment effectively.”

I believe that Mr. Miller’s submission in the Nevada Action creates a direct conflict of interest between myself, H&A, and Mr. Miller and such that it would be unreasonable difficult to continue to carry out my representation of his interest. Based on his statements, it is clear that their attorney-client relationship has broken down and I do not believe it would be appropriate for H&A to represent Mr. Miller at the June 12 deposition. As such, I would request that H&A be permitted to withdraw as counsel for Mr. Miller, and that next week’s deposition be stayed for 60 days to permit Mr. Miller to engage new counsel.

As such, I request that myself, my associate Ryan E. Carreon, and all of H&A be relieved of our representation of Mr. Miller and that the proceedings be stayed for 60 days to allow Mr. Miller to obtain new counsel.

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I have served a copy of this letter on Mr. Miller via email as well as opposing counsel Ryan Isenberg.

/s/ Mathew K. Higbee

Mathew K. Higbee, Esq.

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